

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

FILED

04 MAR 16 PM 3:14
U.S. DISTRICT COURT
N.D. OF ALABAMA

JOHN PATRICK, et al.,

Plaintiffs,

vs.

WYETH, et al.,

Defendants.

CV-04-CO-0296-W

ENTERED
MAR 16 2004

MEMORANDUM OF OPINION

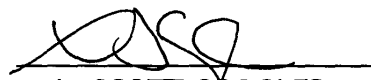
Presently before the court is Plaintiff's Emergency Motion to Remand, filed on February 23, 2004 [Doc. # 13], Wyeth's Motion to Suspend Duties Under Federal Rule of Civil Procedure 26(f) and Local Rule 26.1(d), and to Stay to Allow Transfer to the Multi-District Litigation Proceeding [Doc. # 11], Plaintiff's Motion for Oral Argument [Doc. # 14], and Wyeth's Motion for Entry of Briefing Schedule [Doc. # 15]. Upon due consideration, and for the reasons that follow, Plaintiff's Emergency Motion to Remand [Doc. # 13] will be granted. Wyeth's Motion to Suspend Duties Under Federal Rule of Civil Procedure 26(f) and Local Rule 26.1(d), and to Stay to Allow Transfer to the

Multi-District Litigation Proceeding [Doc. # 11] is denied. Plaintiff's Motion for Oral Argument [Doc. # 14] is denied and Wyeth's Motion for Entry of Briefing Schedule [Doc. # 15] is denied.

The claims, facts and arguments asserted in this case are extremely similar to those in *Marshand v. Wyeth, et al.*, CV-03-CO-3195-W (N.D. Ala. filed March 16, 2004). The differences are not material to the consideration of the pending motions. The court by reference adopts the analysis set forth in that opinion.

The court is of the opinion that it does not have diversity jurisdiction over the claims against the defendants. This case will be remanded to the Circuit Court of Tuscaloosa County, Alabama. A separate order will be entered.

Done, this 12 day of March, 2003.

A handwritten signature in black ink, appearing to read 'LSCG', is written over a horizontal line.

L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE